

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 6/11/03 Item C.C. 6/17/03 Item
	File Number PDC 03-017
	Application Type Planned Development Rezoning
	Council District 10
	Planning Area South San Jose
	Assessor's Parcel Number(s) 462-49-006
PROJECT DESCRIPTION	
Completed by: John W. Baty	
Location: Northwest corner of Capitol Expressway and Timberloop Drive	
Gross Acreage: 11.87	Net Acreage: 11.87
Net Density: n/a	
Existing Zoning: A(PD)	Existing Use: Commercial parking lot (Home Depot)
Proposed Zoning: A(PD)	Proposed Use: Up to 1,500 square feet of commercial drive-through use
GENERAL PLAN	
Completed by: JWB	
Land Use/Transportation Diagram Designation GC- General Commercial	Project Conformance: [ x ] Yes [ ] No [ ] See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING	
Completed by: JWB	
North: Home Depot parking lot, single-family attached residential	A(PD) Planned Development
East: Multi-family attached residential	A(PD) Planned Development
South: Single-family detached residential units	R-1-8, A(PD) Planned Development
West: Commercial (Home Depot)	A(PD) Planned Development
ENVIRONMENTAL STATUS	
Completed by: JWB	
[ X ] Environmental Impact Report found complete on March 16, 1993 [ ] Negative Declaration circulated on [ ] Negative Declaration adopted on	[ ] Exempt [ ] Environmental Review Incomplete
FILE HISTORY	
Completed by: JWB	
Annexation Title: Edenvale No. 2	Date: January 27, 1961
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION	
[ x ] Approval [ ] Approval with Conditions [ ] Denial [ ] Uphold Director's Decision	Date: _____ Approved by: _____ [ ] Action [X] Recommendation
APPLICANT/DEVELOPER	OWNER
United Growth, LLC Attn. John Walsey 1250 Bayhill Drive, Ste 201 San Bruno, CA 94066	Credit Suisse Leasing 92A, L.P., a Delaware limited partnership Attn. Daniel R. Hatch, Sr. Corporate Counsel Home Depot USA, Inc. 3800 W. Chapman Ave. Orange, CA 92868

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: JWB

**Department of Public Works**

See attached memorandum.

**Other Departments and Agencies**

None received.

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**GENERAL CORRESPONDENCE**

None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant, United Growth, LLC, is proposing to rezone approximately 0.4 acres of the subject 11.87 gross acre site from A (PD) Planned Development to A (PD) Planned Development to allow up to 1,500 square feet of commercial building with a drive-through use (Starbucks) on the southeast corner of the existing Home Depot parking lot. A new PD zoning is required because the current zoning does not allow the proposed use. A separate parcel will be created for the project site.

The subject site is currently developed with an existing Home Depot and garden center. The existing Home Depot and garden center was the subject of a previous Planned Development Rezoning (File No. PDC96-004) that was approved in June 1996. Existing parking spaces will be removed and a portion of the existing parking lot will be reconstructed to accommodate the proposed project.

Land uses surrounding the subject site include single-family attached beyond the existing Home Depot parking lot to the north, Avalon Apartments to the east across Timberloop Drive, single-family attached and detached dwelling units to the south across Capitol Expressway, and Home Depot with garden center to the west.

**ENVIROMENTAL REVIEW**

The environmental impacts of this project were originally addressed by a Final EIR certified by the Planning Commission on February 24, 1993, for the previously approved Waterford Project Planned Development Zoning (File No. PDC91-067). Findings were adopted by the City Council on March 16, 1993 as Resolution No. 64433. The EIR was prepared for the rezoning of approximately 105 acres to allow up to 1,388 residential dwelling units and approximately 130,000 square feet of commercial space. The major environmental issues addressed were traffic & circulation, hazardous materials, noise, cultural resources, biotics, land use, urban services, utilities, air quality, soils & geology, hydrology & flooding, and energy.

An Addendum to the Waterford EIR was prepared for the proposed project. This addendum, which addressed additional site and project specific issues, was adopted on May 27, 2003. A copy of the Addendum is attached.

Further noise analysis was prepared for the proposed project to determine whether there would be any project related noise impacts to the residential apartments across Timberloop Drive. The noise analysis demonstrated that the project-generated noise exposures at the most impacted apartment (41 dB DNL) would be within the limits of the City of San Jose Noise Element standards (55 dB DNL) and would not require mitigation.

The Department of Public Works determined that a traffic report would not be required for the proposed project based on the projected trip generation of the combined existing commercial use (Home Depot) and the proposed drive-through use (Starbucks). Additionally the proposed drive-through use does not have ingress or egress driveways within 300 feet of a signalized intersection operating at a Level of Service D, E or F, thus would not impair the efficiency or operation of a signalized intersection.

The proposed change to the project with this rezoning results in no new significant environmental impacts. This project will incorporate all of the environmental mitigation measures originally included in the previous project, including project specific mitigation.

## **GENERAL PLAN CONFORMANCE**

The subject site has a designation of GC-General Commercial on the General Plan Land Use/Transportation Diagram. The proposed commercial use is consistent with that designation.

## **ANALYSIS**

The primary issues associated with this project include 1) parking, 2) conformance with City Council Policy 6-10: Drive-through Uses, and 3) Commercial Design Guidelines.

### Parking

There are currently 571 parking spaces existing on the Home Depot site. The Home Depot building and use requires 511 parking spaces resulting in a surplus of 60 spaces. The proposed project requires the removal of 46 parking spaces, which allows Home Depot to continue to meet its parking requirements. The project will construct 13 new parking spaces to meet its parking requirement. Additional modifications will be made to the existing parking lot, including new landscaping with canopy trees.

### City Council Drive-through Use Policy

The proposed drive-through is consistent with key elements of the City Council Policy for Drive-Through Uses with respect to traffic, location, noise, hours of operation and urban design. Additional operational conditions will be incorporated into the Planned Development permit.

**Traffic.** The policy requires that stacking for up to eight (8) cars be provided in a dedicated staking lane separated physically from the use's associated parking lot. The proposed project provides nine (9) stacking spaces and is separated from both the proposed Starbucks parking lot and the existing Home Depot parking lot. To the degree that overflow might occur on occasion, such stacking would not impact driveways adjacent to the public right-of-way.

The policy suggests that primary ingress and egress to a drive-through occur from at least a four-lane major street. As with Home Depot, the proposed use takes access off the existing southerly driveway on Timberloop Drive, which is not a four-lane major street. However, the driveway is located in close proximity to Capitol Expressway. The expressway is under the jurisdiction of the County, which generally restricts the issuance of encroachment permits for private driveways.

***Location and Noise.*** The intent of the policy is to provide adequate distance or buffer between the residential use and a drive through use in order to minimize noise impacts. The policy recommends that all drive-through uses should be located 200 feet or more from immediately adjacent or directly opposite residentially used, zoned or General Plan designated properties. This project is located approximately 70 feet away from the nearest residential property line across Timberloop Drive. The drive-through use and the nearest residential unit are approximately 110 feet apart. The drive-through speaker will be located on the west-side of the building facing Home Depot and away from the Avalon Apartments.

Based on a noise analysis performed by Edward L. Pack Associates, Inc., project-generated noise exposures will be within the limits of City of San Jose standards. Between the hours of 6:00 a.m. and 10:00 p.m. existing ambient noise levels measured at the closest apartment are between 47 dBA and 55.5 dBA. The maximum noise level at the most impacted apartment generated by the menu-board speaker is 42 dBA, well under the existing ambient noise levels.

***Hours of Operation.*** The planned hours of operation of the drive-through portion of the use are in conformance with the Drive-through Policy, which states that no drive-through portion of land use shall operate after the hour of 10:00 p.m.

***Urban Design.*** The architecture of the proposed drive-through use is compatible and harmonious with the existing Home Depot center and with that of the nearby apartments in terms of color, materials, mass, scale and form. The proposal includes seating within the use as well as the potential for outdoor patio seating.

#### Commercial Design Guidelines

The proposed site plan is generally consistent with the Commercial Design Guidelines (CDGs) for drive through restaurant in terms of sufficient stacking, site organization, building location and design, parking, and site circulation. Consistent with the CDGs, the proposed Starbucks building is located close to the street to establish good street presence and to help break up a very large expanse of existing parking area along Capitol Expressway and Timberloop Drive.

Even though the drive through window and stacking lane face the public street, the proposed drive-through restaurant provides a good architectural design compared to typical designs of the past. The drive-through lane, which by operational function, must “hug” the edge of the building somewhat limits the architectural opportunities to articulate the side of the building next to the pick-up window. In keeping with the recent practice for other approved drive-through restaurant buildings, the greater use of architecturally integrated overhead roof canopies and abutting trellises, such as proposed, has dramatically improved the overall quality of the architecture. As previously mentioned the architecture of the proposed use is compatible with the existing Home Depot as well as with the nearby apartments.

The landscaping plan for the project site and modifications to the Home Depot parking lot will be more closely scrutinized prior to the issuance of the PD permit. Opportunities will be utilized to increase the planting of additional street trees along the Capitol Expressway frontage, as well as the setback area, and within the site interior. The conceptual landscape plan included in the packet does not adequately conform to the CDGs with regard to landscaping.

## **PUBLIC OUTREACH**

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss potential concerns raised by members of the public.

## **RECOMMENDATION**

Planning staff recommends approval of the subject conforming rezoning for the following reasons:

1. The project is consistent with the General Plan Land Use/Transportation Diagram of GC-General Commercial.
2. The project has sufficient parking and traffic capacity.
3. The project substantially conforms to City Council Policy 6-10: Drive-through Uses.
4. The project conforms to the Commercial Design Guidelines.